

## **REMARKS**

### **I. Status of the claims**

Applicant submits this Amendment After Final in response to the Office action mailed September 27, 2007. Applicant amends claims 1, 24, 30, 39, 44, 49, and 51. Claims 1-51 remain pending in this application. No new matter has been added.

Reconsideration and allowance of claims 1-51 is respectfully requested in view of the claims amended herein and the following remarks.

### **II. Claim Rejections - 35 U.S.C. § 102(e)**

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." M.P.E.P. § 2131, quoting *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." See M.P.E.P. § 2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). Finally, "[t]he elements must be arranged as required by the claim." M.P.E.P. § 2131.

In the Office Action, claims 1-51 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,966,000 to Zhang et al. (hereinafter "Zhang").

Applicant requests the withdrawal of the 35 U.S.C. § 102(e) rejection of claims 1-51 because Zhang fails to anticipate these claims as amended. Zhang does not anticipate the claimed invention because Zhang does not disclose each and every element of independent claims 1, 24, 27, 30, 39, 43, 44, 49, 50, and 51.

For example, amended independent claim 1 recites “delivering a first enabling signal to an intermediary in response to the authorization; and delivering a second enabling signal to said machine in response to said first enabling signal.” Zhang fails to disclose or suggest both of these elements. Zhang discloses receiving an access request, determining whether to grant access, and then sending an access grant. (Zhang, Abs.) The examiner appears to be equating a customer’s request for access to a “first enabling signal,” however, there is nothing in Zhang to suggest that a request for access is enabling. Specifically, Zhang distinguishes a grant of access from an access request. (Zhang, col. 6, ll. 41-43). Zhang does not disclose “delivering a first enabling signal to an intermediary in response to the authorization; and delivering a second enabling signal to said machine in response to said first enabling signal.” For at least these reasons, Zhang does not disclose or suggest each and every element of amended independent claim 1, and thus cannot anticipate amended independent claim 1 under 35 U.S.C. 102(e). Applicant respectfully requests the allowance of amended independent claim 1 and all claims dependent therefrom.

Independent claim 24 recites “distributing at least a portion of said enabling signal to a plurality of controllers located on said remote machine.” The examiner points out that Zhang discloses granting access to only a portion of the available options. (Office Action at p.3.) While this may or may not be true, Zhang does not teach distributing “a portion of said enabling signal to a plurality of controllers.” The examiner appears to be equating a portion of options to a portion of an enabling signal, however, there is nothing in Zhang to suggest that enabling more than one option requires distributing the signal or a portion of the signal to more than one controller. For at least

these reasons, Zhang does not disclose or suggest each and every element of independent claim 24, and thus cannot anticipate independent claim 24 under 35 U.S.C. 102(e). Applicant respectfully requests the allowance of independent claim 24 and all claims dependent therefrom.

Independent claim 27 recites “identifying a failed processor associated with said replacement processor.” The examiner points out that Zhang discloses identifying a failed validation and allowing a replacement system to receive it. (Office Action at p.4.) Zhang discloses allowing a new request if the system is not capable of performing the requested function resulting in a failed validation. (Zhang, col. 6, ll. 35-40.) However, a new request is simply the issuance of a replacement signal, not a replacement system as alleged by the examiner. Zhang does not disclose a failed processor, i.e. a failed piece of equipment nor a replacement processor, i.e., a second piece of equipment. For at least these reasons, Zhang does not disclose or suggest each and every element of independent claim 27, and thus cannot anticipate independent claim 27 under 35 U.S.C. 102(e). Applicant respectfully requests the allowance of independent claim 27 and all claims dependent therefrom.

Independent claim 30 recites “receiving a disabled characteristic associated with said software option; and establishing an entitlement in response to said disabled characteristic.” The examiner argues that “Zhang teaches validating a system for receiving the enabling signal and if not valid (failed validation) allowing a replacement one to receive it, inherently providing such feature.” (Office Action, p.4, ¶ 13.) First, Applicant notes that claim 30 does not recite nor require “validating a system for receiving the enabled signal...and if not valid allowing a replacement one to receive it.”

Thus, even if Zhang discloses such a feature, which applicant denies, it is moot with respect to claim 30. Further, the Examiner has not gone through the analysis required to make an inherency rejection, including establishing evidence of inherency. (See MPEP § 2112 IV stating that an examiner must provide extrinsic evidence that must make clear that the missing descriptive matter is necessarily present in the thing described in the reference and must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.) For at least these reasons, the rejection of claim 30 is improper and should be withdrawn. Should the examiner maintain this inherency rejection, Applicant requests that the examiner provide the required analysis and evidence as set forth in MPEP § 2112. Finally, with regard to the actual features of claim 30, Applicant submits that Zhang does not disclose an entitlement of any sort. For at least these reasons, Zhang does not disclose or suggest each and every element of independent claim 30, and thus cannot anticipate independent claim 30 under 35 U.S.C. 102(e). Applicant respectfully requests the allowance of independent claim 30 and all claims dependent therefrom.

Independent claim 39 recites "enabling said software option during a trial period." Zhang does not disclose a trial period and therefore does not disclose enabling a software option during a trial period. The Office Action points to col. 7, ll. 20-47 of Zhang for disclosure of the trial period. However, this portion of Zhang, and also including lines 5-19, discusses initial download by the user of the purchased access, billing for that access, and monitoring of the access until such time as it may be due for renewal, including new billing. (Zhang, col. 7, ll. 5-47.) As discussed in the

specification (see p.25, paragraph 49), and as also commonly understood as the accepted meaning of the term, “a trial period” is a period during which the user may try a feature/product without paying for it and after which a user will have the option to purchase or lease the feature/product. Zhang does not disclose a trial period. For at least these reasons, Zhang does not disclose or suggest each and every element of independent claim 39, and thus cannot anticipate independent claim 39 under 35 U.S.C. 102(e). Applicant respectfully requests the allowance of independent claim 39 and all claims dependent therefrom.

Independent claim 43 recites “receiving a request to disable said software option.” The Office Action states that Zhang discloses such a feature at col. 6, ll. 7-40. (Office Action, p.7.) However, this portion of Zhang is directed to inputting customer information, validating customer information, receiving a customer request, validating a system, and granting access based on customer status and does not disclose or suggest “receiving a request to disable said software option.” Further the Office Action points to col. 7, ll. 1-47. (Office Action, p.7.) This portion of Zhang is directed to initial download by the user of the purchased access, billing for that access, and monitoring of the access until such time as it may be due for renewal, including new billing, and does not disclose or suggest “receiving a request to disable said software option.” In addition, Zhang discloses allowing an access grant to expire on its own. (Zhang, col. 7, ll. 45-47.) Zhang does not disclose “receiving a request to disable the software option.” For at least these reasons, Zhang does not disclose or suggest each and every element of independent claim 43, and thus cannot anticipate independent claim 43 under 35 U.S.C. 102(e). Applicant respectfully requests the allowance of independent claim 43.

Amended independent claim 44 recites, in part, “receiving a request by a manufacturer from a dealer to enable said software option” and “delivering an enabling signal to said remote customer machine.” Zhang discloses a two entity relationship between a customer and a centralized facility. (Zhang, col. 3 ll. 42 - 60.) While Zhang discloses that there may be multiple centralized facilities, Zhang does not disclose that the other facilities would represent a third entity, i.e. a different type of entity from the first and second entity. Further, Zhang does not disclose or suggest communication between a customer, a dealer, and a manufacturer. For at least these reasons, Zhang does not disclose or suggest each and every element of amended independent claim 44, and thus cannot anticipate amended independent claim 44 under 35 U.S.C. 102(e). Applicant respectfully requests the allowance of amended independent claim 44 and all claims dependent therefrom.

Amended independent claim 49 recites “receiving an enabling signal at said machine in response to said authorization, said enabling signal being verified by an intermediary.” Zhang discloses sending an access grant to a device but does not disclose an “enabling signal being verified by an intermediary.” For at least these reasons, Zhang does not disclose or suggest each and every element of amended independent claim 49, and thus cannot anticipate amended independent claim 49 under 35 U.S.C. 102(e). Applicant respectfully requests the allowance of amended independent claim 49.

Independent claim 50 recites, in part, “disabling said software option on said second machine in response to said request; generating an enabling signal in response to said disablement; and enabling said software option on said first machine in response

to said enabling signal.” Zhang discloses granting access to a customer device in response to a request for that access from a centralized facility. (Zhang, Abs.) Zhang does not disclose “disabling said software option on said second machine in response to said request; generating an enabling signal in response to said disablement; and enabling said software option on said first machine in response to said enabling signal.” For at least these reasons, Zhang does not disclose or suggest each and every element of independent claim 50, and thus cannot anticipate independent claim 50 under 35 U.S.C. 102(e). Applicant respectfully requests the allowance of independent claim 50.

Independent claim 51 recites “an intermediary configured to receive said first enabling signal, authenticate said signal, and responsively deliver a second enabling signal to said machine in response to said first enabling signal.” The Office Action states that Zhang discloses such a feature at col. 5, ll. 1-45. However, this portion of Zhang is directed to the configuration of the centralized facility and the network configuration connecting the customer to the facility and does not disclose or suggest “an intermediary configured to receive said first enabling signal, authenticate said signal, and responsively deliver a second enabling signal to said machine in response to said first enabling signal.” For at least these reasons, Zhang does not disclose or suggest each and every element of independent claim 51, and thus cannot anticipate independent claim 51 under 35 U.S.C. 102(e). Applicant respectfully requests the allowance of independent claim 51.

Applicant respectfully requests that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 1-51 in condition for allowance. Applicant submits that the proposed amendments of claims 1, 24, 30, 39, 44, 49, and 51 do not

raise new issues or necessitate the undertaking of any additional search of the art by the Examiner, since all of the elements and their relationships claimed were either earlier claimed or inherent in the claims as examined. Therefore, this Amendment should allow for immediate action by the Examiner.

Furthermore, Applicant respectfully points out that the final action by the Examiner presented some new arguments as to the application of the art against Applicant's invention. It is respectfully submitted that the entering of the Amendment would allow the Applicant to reply to the final rejections and place the application in condition for allowance.

Finally, Applicant submits that the entry of the amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

In view of the foregoing remarks, Applicant submits that this claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicant therefore requests the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

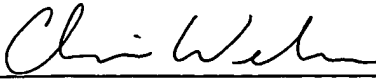
Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.



Respectfully submitted,

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Dated: December 27, 2007

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